

Council

C/52/17

**Fifty-Second Ordinary Session
Geneva, November 2, 2018****Original:** English
Date: November 1, 2018**REPORT BY THE PRESIDENT ON THE WORK OF THE NINETY-FIFTH SESSION
OF THE CONSULTATIVE COMMITTEE; ADOPTION OF RECOMMENDATIONS,
IF ANY, PREPARED BY THAT COMMITTEE***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. The Consultative Committee held its ninety-fifth session in Geneva on November 1, 2018.
2. The recommendations made by the Consultative Committee on the following items, as set out in this report, will be considered by the Council under the relevant agenda items (see document C/52/1 Rev.):
 - (a) Examination of the conformity of the Plant Variety Protection Act of Afghanistan with the 1991 Act of the UPOV Convention (document C/52/19)
 - (b) Adoption of documents (document C/52/14)
 - (c) Financial statements for 2017 (document C/52/12)
 - (d) Report of the External Auditor (document C/52/13)
 - (e) Arrears in contributions as of September 30, 2017 (document C/52/11)
 - (f) Examination and approval of the Financial Management Report for the 2016-2017 Biennium (document C/52/4)
 - (g) Calendar of meetings in 2018 (document C/52/8)
 - (h) Press Release (document C/52/18)
3. The work of the Consultative Committee at its ninety-fifth session is summarized in the following paragraphs.

Preliminary examination of the conformity of the Plant Variety Protection Act of Afghanistan with the 1991 Act of the UPOV Convention

4. The Consultative Committee recommended to the Council to:
 - (a) take note of the analysis in document C/52/19;
 - (b) recommend that Afghanistan incorporate the amendments in the "Plant Variety Protection Act", as provided in document C/52/19, and recommend that, once the amendments have been incorporated in the Act, the amended Act be submitted to the Council for examination in conformity with Article 34(3) of the 1991 Act;
 - (c) request the Office of the Union to offer its assistance, at the earliest opportunity, to Afghanistan in drafting the necessary amendments to the Act;
 - (d) authorize the Secretary-General to inform the Government of Afghanistan of that decision.

Documents proposed for adoption by the Council

5. The Consultative Committee considered the conclusions of the Technical Committee (TC) at its fifty-fourth session, held in Geneva on October 29 and 30, 2018 (see document TC/54/31 "Report") and the conclusions of the Administrative and Legal Committee (CAJ) at its seventy-fifth session, held in Geneva on October 31, 2018 (see document CAJ/75/14 "Report").

TGP documents

TGP/5: Experience and Cooperation in DUS Testing (Revision) (document TGP/5: Section 1/3 Draft 2)

6. The Consultative Committee recommended to the Council to adopt a revision of document TGP/5 "Experience and Cooperation in DUS Testing", Section 1/2 "Model Administrative Agreement for International Cooperation in the Testing of Varieties" (document TGP/5: Section 1/3), on the basis of document TGP/5: Section 1/3 Draft 2.

TGP/7: Development of Test Guidelines (Revision) (document TGP/7/6 Draft 2)

7. The Consultative Committee recommended to the Council to adopt a revision of document TGP/7/5 "Development of Test Guidelines" (document TGP/7/6), on the basis of document TGP/7/6 Draft 2.

TGP/0: List of TGP documents and latest issue dates (Revision) (document TGP/0/10 Draft 1)

8. The Consultative Committee recommended to the Council to adopt a revision of document TGP/0/9 "List of TGP documents and latest issue dates" (document TGP/0/10) on the basis of document TGP/0/10 Draft 1.

Information documents

UPOV/INF/4: Financial Regulations and Rules of UPOV (Revision) (document UPOV/INF/4/5 Draft 1)

9. In reply to the question from the Delegation of the European Union on the establishment and function of the Working Capital Fund (WCF), the Controller explained that the WCF was established by a decision of the Council in 1969. She noted that the purposes for which the WCF could be utilized would be to meet budgeted expenditure pending the receipt of the contributions of members of the Union and unavoidable unforeseen expenses arising from the execution of the approved program.

10. The Consultative Committee recommended to the Council to adopt a revision of document UPOV/INF/4 "Financial Regulations and Rules of UPOV" (document UPOV/INF/4/5), on the basis of the amendments to document UPOV/INF/4/5, as presented in document UPOV/INF/4/5 Draft 1.

UPOV/INF/16: Exchangeable Software (Revision) (document UPOV/INF/16/8 Draft 1)

11. The Consultative Committee recommended to the Council to adopt a revision of document UPOV/INF/16/7 "Exchangeable Software" (document UPOV/INF/16/8), on the basis of document UPOV/INF/16/8 Draft 1.

UPOV/INF/22: Software and Equipment Used by Members of the Union (Revision) (document UPOV/INF/22/5 Draft 1)

12. The Consultative Committee recommended to the Council to adopt a revision of document UPOV/INF/22/4 "Software and equipment used by members of the Union" (document UPOV/INF/22/5), on the basis of document UPOV/INF/22/5 Draft 1.

UPOV/INF-EXN: List of UPOV/INF-EXN Documents and Latest Issue Dates (Revision) (document UPOV/INF-EXN/12 Draft 1)

13. The Consultative Committee recommended to the Council to adopt a revision of document UPOV/INF-EXN/11 "List of INF-EXN Documents and Latest Issue Dates" (document UPOV/INF-EXN/12) on the basis of document UPOV/INF-EXN/12 Draft 1.

Financial statements for 2017

14. The Consultative Committee recommended to the Council to approve the Financial Statements for 2017.

Report of the External Auditor

15. The Consultative Committee considered document C/52/13 and noted the information contained in the Report of the External Auditor.

Arrears in contributions as of September 30, 2018

16. The Consultative Committee noted the status of payment of contributions as of September 30, 2018, and noted that, as a result of recent payments, the African Intellectual Property Organization (OAPI), Bolivia (Plurinational State of), Costa Rica, Jordan and the United States of America had no arrears.

Preparation of the Draft Program and Budget for the 2020-2021 Biennium

17. The Consultative Committee noted the key elements of the Draft Program and Budget for the 2020-2021 Biennium and requested the Office of the Union to prepare a complete, preliminary Draft Program and Budget for the Biennium 2020-2021, in conjunction with the most up-to-date information on the financial situation, for consideration by the Consultative Committee by correspondence. The document would be circulated to members of the Union by February 28, 2019, in English, and the translations as soon as possible thereafter. The Consultative Committee would be requested to provide comments within six weeks from the circulation of the draft in all languages.

18. Based on the comments received on the preliminary draft circulated by correspondence, the Office of the Union would prepare the Draft Program and Budget for the 2020-2021 Biennium by September 1, 2019, for consideration by the Consultative Committee on October 31, 2019, and by the Council on November 1, 2019.

Internal oversight and the WIPO Independent Advisory Oversight Committee (IAOC)

19. The Consultative Committee noted that, on the basis of the risk assessment of UPOV, there had been no internal audit of UPOV in 2017 and that the Secretary-General had not been made aware of the need for any investigations in UPOV in 2017.

20. The Consultative Committee noted the information contained in the IAOC quarterly reports for 2017 (documents WO/IAOC/44/2, WO/IAOC/45/2, WO/IAOC/46/2 and WO/IAOC/47/2), and in the IAOC Annual Report 2016-2017 (document WO/PBC/27/2).

Financing of long-term employee benefits

21. The Consultative Committee noted the developments with regard to financing of long-term employee benefits.

Special project fund

22. The Consultative Committee noted the activity that had been supported by the Special Project Fund in 2018 and noted that all the remaining balance of the Special Project Fund had been used in 2018.

Strategic Business Plan

23. The Consultative Committee noted the latest situation with regard to the Resourcing Plan and the 10 specific targets that had been identified for improvement in the Draft Strategic Business Plan.

24. The Consultative Committee invited the Office of the Union to prepare a proposal for consideration at its ninety-sixth session for database/IT services that UPOV might consider as potential revenue sources, in conjunction with the proposal for the funding of UPOV PRISMA.

Observers in UPOV

25. The Consultative Committee noted the granting of observer status to Afghanistan in the Council, the CAJ, the TC and the Technical Working Parties (TWPs).

26. The Consultative Committee noted the granting of observer status to Nigeria in the Council, the CAJ and the TC.

27. The Consultative Committee noted the *ad hoc* invitations issued to experts from the African Regional Intellectual Property Organization (ARIPO) to attend the fifty-fourth session of the TC, to be held on October 29 and 30, 2018, and the seventy-fifth session of the CAJ, to be held on October 31 2018.

28. The Consultative Committee decided to extend the observer status of the ARIPO to the CAJ, the TC and the TWPs.

Communication strategy

29. The Consultative Committee noted that consideration of whether to continue including stakeholder features would be included in a future review of the UPOV website.

30. The Consultative Committee agreed that the redrafting of the adopted FAQ on Sustainable Development Goals (SDGs) should not be pursued further. However, the Consultative Committee agreed that the Office of the Union should use relevant material to communicate to the general public the role of the UPOV system in supporting sustainable development and to seek to develop an FAQ for that purpose.

31. The Consultative Committee approved the following text for an FAQ on the benefits of new varieties of plants for society and recommended its adoption by the Council:

Feeding the World

New varieties of plants are an essential and sustainable means of achieving food security in the context of population growth and climate change. The availability of an increasing choice of healthy, tasty and nutritious food at affordable prices relies on new varieties that are adapted to the environment in which they are grown and which provide a viable income for farmers.

Improving lives in rural and urban areas

In rural areas, innovation in agriculture and horticulture is important for economic development, with production of high value varieties of fruit, vegetables and ornamentals providing increased income for farmers and employment for millions of people around the world. At a time of increasing urbanization, new varieties support the development of urban agriculture and the growing of ornamental plants, shrubs and trees that contribute to improving the urban environment.

Respecting the natural environment

Improved yield, more efficient use of nutrients, resistance to plant pests and diseases, salt and drought tolerance and better adaptation to climatic stress are some of the features that enable new varieties to increase productivity and product quality in agriculture, horticulture and forestry, whilst minimizing the pressure on the natural environment.

32. The Consultative Committee requested the Office of the Union to invite comments on the FAQ on the benefits of new varieties of plants for society by the end of November 2018. Based on the comments received, it requested the preparation of a new draft to be circulated to the Consultative Committee by correspondence. It requested a further draft to be presented for consideration at its ninety-sixth session.

33. The Consultative Committee agreed that the Office of the Union should prepare proposals to update relevant FAQs to reflect developments concerning UPOV PRISMA and the UPOV Distance Learning Programs, for consideration at its ninety-sixth session.

34. The Consultative Committee noted the publication of the videos: “Using the UPOV system to benefit custodians of native wild germplasm in Argentina”; “Canadian cherry growers benefit from government policy”; “Rose industry blooming in Kenya”, the “Tsuyahime Rice Story: adding value for farmers (Japan)” and “UPOV system bringing benefits for agriculture in Colombia”.

35. The Consultative Committee noted that the following videos were under development: “Importance of plant breeding and plant variety protection from the perspective of Agroscope (a public research institute in Switzerland)”; and “Diversity of tomato varieties (Netherlands)”.

Communication methods

UPOV website

36. The Consultative Committee noted that UPOV would be implementing a secure environment (<https://>) for its website as from November 15, 2018.

37. The Consultative Committee further noted that the Office of the Union planned to redesign the UPOV website within two years in order to incorporate a “responsive” design and a new content management system (CMS). The Consultative Committee would be consulted on the proposals before implementation if the proposed redesign substantially affected the appearance and/or content of the website.

38. The Consultative Committee noted that under section of the website “Seminars & Symposia” there was a link to a section “Events outside Geneva” (e.g. 2016 Enforcement Seminar in Viet Nam at http://www.upov.int/meetings/en/events_outside_gva.html). It was agreed that more materials from events from outside Geneva should be posted on the UPOV website, according to available resources.

Social media

39. The Consultative Committee noted that UPOV had created a UPOV channel on YouTube in 2016 and an entry in LinkedIn to promote UPOV PRISMA.

40. The Consultative Committee approved the introduction of a UPOV Twitter account, with the intention to issue “tweets” in order to provide latest news from UPOV (e.g. content included in press releases); raise awareness of new and/or topical information on the UPOV website (e.g. stakeholder features, studies, videos, FAQs) and raise awareness of UPOV services (e.g. GENIE, PLUTO, UPOV Lex, UPOV PRISMA). The Consultative Committee further approved the creation of a Twitter account for the Vice Secretary-General to communicate matters concerning UPOV.

41. The Consultative Committee approved the use of the UPOV LinkedIn entry to share the same type of information that would be disseminated via the UPOV Twitter account.

42. The Consultative Committee approved the plans of the Office of the Union to create a separate LinkedIn entry for UPOV PRISMA in order to achieve better functionality for publicizing UPOV PRISMA in conjunction with its e-mail campaigns.

43. The Consultative Committee noted that the results of the Workplan were reported in documents C/52/2 “Annual report of the Secretary-General for 2017” and C/52/16 “Performance report for the 2016 2017 Biennium”.

UPOV PRISMA

44. The Consultative Committee noted the developments concerning UPOV PRISMA and the financial contributions made to UPOV PRISMA from ISF, CIOPORA, CropLife International and the Ministry of Agriculture, Nature and Food Quality of the Netherlands.

45. The Consultative Committee noted that more time was needed to increase the number of UPOV PRISMA users in order to achieve a reliable survey of the suitability of financing options and also to ensure reliability for users. With regard to a survey of financing options, the Vice Secretary-General confirmed the

intention to survey users that had submitted applications via UPOV PRISMA, registered entities, newsfeed subscribers and possibly other potential users. The survey would be structured to enable the results of the different categories to be analyzed separately.

46. The Consultative Committee recommended to the Council to approve the use UPOV PRISMA free of charge in 2019.

47. On the above basis, the Consultative Committee requested the Office of the Union to present options to the Consultative Committee, at its ninety sixth session, for the financing of UPOV PRISMA, including: fee per submission; fee per variety; subscription model(s) for applicants; subscription model(s) for members of the Union and package(s) of UPOV services.

International system of cooperation

48. The Consultative Committee noted the progress in the work of the Working Group on an International System of Cooperation (WG-ISC) on the fourth meeting of WG-ISC, held in Geneva on October 31, 2018.

49. The Vice Secretary-General reported that the WG-ISC, at its fourth meeting, had analyzed the possible issues relevant for the needs of the PVP Offices as identified at the first meeting, and amended at the second and third meetings of the WG-ISC, as set out in Annex III of document UPOV/WG-ISC/4/2, for suitability to be included in a proposal for a possible international system of cooperation. He explained that the WG-ISC had identified the following elements to form a draft proposal for a possible international system of cooperation:

DUS

- (a) to assist members of the Union to make their documented DUS procedures and information on their quality management systems available to other members of the Union;
- (b) to include contact information in GENIE database for DUS experts with practical knowledge of particular crops/species;
- (c) to provide opportunities at the Technical Committee and Technical Working Parties for participants to explore and share information on DUS cooperation;
- (d) to facilitate cooperation between members of the Union in the development of databases and exchanging data (e.g. by providing guidance on data models) and by providing information on the database;

Novelty

- (e) to review application forms in UPOV PRISMA for options on seeking information from applicants, concerning novelty;

Denominations

- (f) to follow recommendations from the Working Group on Variety Denominations (WG-DEN) on:
 - UPOV similarity search tool,
 - extending information on denominations that would be searchable via the PLUTO database or web-service,
 - providing information on denomination contact persons on the UPOV website;

Cooperation in administrative matters

- (g) UPOV PRISMA application information on procedures to include information on how to make payments for use of existing DUS reports provided by another authority;

Facilitating applications

- (h) addressed by UPOV PRISMA.

50. On the above basis, the WG-ISC had requested the Office of the Union to prepare a draft document containing proposals, analysis and information on the above elements for initial consideration by correspondence and further consideration at its fifth meeting. Subject to agreement by the WG-ISC, the document would be presented to the Consultative Committee at its ninety-sixth session, immediately after the fifth meeting of the WG-ISC, to be held on the evening of October 30, 2019.

Interrelations with the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

51. The Consultative Committee noted that the Governing Body of the ITPGRFA, at its Seventh Session, had adopted Resolution 7/2017 on "Implementation of Article 9, Farmers' Rights" and Resolution 12/2017 on "Cooperation with other international bodies and organizations. The Consultative Committee also noted that Resolution 7/2017 contained a decision to establish an *Ad Hoc* Technical Expert Group on Farmers' Rights (AHTEG), with the terms of reference contained in the Annex to that Resolution.

52. The Consultative Committee noted that the Office of the Union had accepted the invitation of the Secretary of the ITPGRFA to nominate an expert to attend the meetings of the AHTEG, the first meeting of which has been held in Rome, from September 11 to 14, 2018.

53. The Consultative Committee noted the report on the first meeting of the AHTEG of ITPGRFA and that the full report was available at <http://www.fao.org/plant-treaty/meetings/meetings-detail/en/c/1099122/>.

54. The Consultative Committee encouraged members of the Union which were also Contracting Parties to the ITPGRFA to send submissions on measures implementing Article 9 of the ITPGRFA using the template (to: pgrfa-treaty@fao.org copy to upov.mail@upov.int).

55. The Consultative Committee noted the information concerning the second meeting of the AHTEG, tentatively, scheduled for the week of May 20, 2019.

56. The Consultative Committee requested the Office of the Union to report to the Consultative Committee at its ninety-sixth session on the progress of the AHTEG.

57. The Consultative Committee noted the responses to Circular E-18/026 received from members of the Union and observers. The Consultative Committee noted the proposals for revision of the FAQ on the interrelations between the UPOV Convention and the ITPGRFA, and the proposals on how to facilitate the exchanges of experiences and information on the implementation of the UPOV Convention and the ITPGRFA, with the involvement of stakeholders and the other proposals received.

58. The Consultative Committee requested the Vice Secretary-General to consult the Executive Secretary of the CBD and the Secretary of the ITPGRFA on how the objectives of the CBD and ITPGRFA might be reflected in the FAQ, and to explore means on how to facilitate the exchanges of experiences and information on the implementation of the UPOV Convention, the CBD and the ITPGRFA.

59. The Consultative Committee requested the Office of the Union to report to the Consultative Committee on developments at its ninety-sixth session.

Possible use of the Russian language in UPOV

60. The Consultative Committee noted that the Russian Federation had increased its number of contribution units from one half (0.5) to two (2.0) units, effective as of 2019. The Consultative Committee also noted that interpretation services in the Russian language had been provided at UPOV sessions in Geneva, starting from October 2018.

61. The Consultative Committee noted that certain key documents in the UPOV Collection and the UPOV Distance Learning Course DL-205 had already been translated into Russian by the State Commission of the Russian Federation for Selection Achievements Test and Protection (State Commission) and that the Office of the Union would make the UPOV Collection documents available on the UPOV website in due course, subject to available resources.

62. The Consultative Committee noted that translation of the standard UPOV presentation materials from the Train the Trainer course and the UPOV Distance Learning Courses DL-305/305A/305B would be developed in the future, subject to available resources.

63. The Consultative Committee considered the request from the Russian Federation concerning the translation of selected UPOV session documents into Russian on an *ad hoc* basis, subject to available resources within the Office of the Union. The Consultative Committee agreed that the request should be considered in conjunction with the implementation of the program for the use of the Russian language in UPOV. The Consultative Committee noted that the implementation of the program would be reviewed on an annual basis.

64. The Consultative Committee noted that the Russian Federation was investigating potential candidates for a suitably qualified Russian-speaking professional to be provided at no cost to the Office of the Union and a suitable institute in the Russian Federation for the hosting of a training center for Russian-speaking participants.

Situation concerning those States and intergovernmental organizations which have initiated the procedure for acceding to the UPOV Convention or which have been in contact with the Office of the Union for assistance in the development of laws based on the UPOV Convention

65. The Consultative Committee noted the information provided in the document.

Reports from new members of the Union

66. The Consultative Committee noted that it had not been possible for the African Intellectual Property Organization (OAPI) to make a presentation at the Consultative Committee, at its ninety-fifth session, and agreed to renew the invitation for OAPI to make a presentation at the ninety-sixth session of the Consultative Committee, to be held in October 2019.

67. The Consultative Committee approved the issue of invitations to Montenegro and the United Republic of Tanzania to make presentations at the ninety-sixth session of the Consultative Committee, to be held in October 2019.

68. The Consultative Committee agreed with the timetable for presentations at the sessions of the Consultative Committee as follows:

<i>October 2019</i>	- Montenegro - United Republic of Tanzania - OAPI
<i>October 2020</i>	[no new member in 2016]
<i>October 2021</i>	Bosnia and Herzegovina
<i>October 2022</i>	[no new member in 2018 at the time of publication of this document]

Developments of relevance to UPOV in other international fora

69. The Consultative Committee approved the assistance of the Office of the Union to Mr. Jacob Moscona in relation to data in the PLUTO database for research on the factors that determine the types of innovations that different countries produce and export in the agricultural sector with the understanding that the results of the study would be made available to UPOV.

Presentation of documents

70. The Consultative Committee noted the measures taken in relation to the organization of a single set of sessions agreed by the Consultative Committee at its ninety-third session.

71. The Consultative Committee approved the proposal on the booking of meeting rooms for delegates.

72. The Consultative Committee approved the organization of events of relevance for UPOV.

73. The Consultative Committee approved the separation of documents into two types of documents.

74. The Consultative Committee approved the timetable for posting of documents of the CAJ, the Consultative Committee and the Council. The Consultative Committee noted that the above deadlines were not applicable for documents of the TC because of the constraints of the dates of the TWPs sessions and TG preparation.

75. The Consultative Committee approved the procedure for consultation by correspondence between the UPOV sessions.

76. The Consultative Committee approved the organization of a “Seminar on the impact of policy on essentially derived varieties (EDVs) on breeding strategy”, which would be held on the morning of October 30, 2019 (see document CAJ/75/14 “Report”, paragraph 16).

Preparation of the calendar of meetings

77. The Consultative Committee recommended to the Council to approve the calendar of meetings in 2019, and to note the tentative dates of meetings in 2020 and 2021, as set out in document C/52/8, with the following changes for 2019:

Consultative Committee

CC/96 October 31
(Working Group on a Possible International System of Cooperation (WG-ISC/5):
October 30 (evening))

Administrative and Legal Committee

CAJ/76 October 30 (afternoon)
(Seminar on the impact of policy on essentially derived varieties (EDVs) on breeding
strategy: October 30 (morning))
(Working Group on Variety Denominations (WG-DEN/6): October 29 (evening))

Technical Working Party for Vegetables (TWV)

TWV/53 May 20 to 24, Republic of Korea
(Preparatory workshop on the morning of May 19)

Draft press release

78. Subject to developments in the Council, the Consultative Committee recommended to the Council to approve the draft press release contained in the Annex to document C/52/18 Prov.

79. *The Council is invited to:*

(a) *consider the recommendations of the Consultative Committee contained in paragraphs 31, 46 and 76 of this document; and*

(b) *note the work of the Consultative Committee at its ninety-fifth session, as reported in this document.*

[End of document]